

Introduced by Senator Margett

February 18, 2005

An act to amend ~~Section 530.5 of the Penal Code~~ Sections 4017.1 and 5071 of the Penal Code, and Section 219.5 of the Welfare and Institutions Code, relating to ~~crimes~~ personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 460, as amended, Margett. ~~Identity theft~~ Offender access to personal information.

Existing law prohibits offenders who are confined in county facilities, or the Department of Corrections for specified offenses, from performing work that would give them access to the personal information of private persons, as specified.

This bill would preclude any offender confined in a county facility, or the Department of Corrections from gaining access to personal information, as specified.

Existing law prohibits a ward of the juvenile court or of the Department of the Youth Authority who has been adjudicated for specified offenses, from performing any function that provides access to the personal information of private persons, as specified.

This bill would preclude any ward of the juvenile court or of the Department of the Youth Authority from gaining access to personal information, as specified.

By directing county agencies to limit who may participate in county and community work programs, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law relating to identity theft provides that every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information of another person is guilty of a misdemeanor, punishable as specified.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 530.5 of the Penal Code is amended to~~
2 ~~read:~~

3 *SECTION 1. Section 4017.1 of the Penal Code is amended to*
4 *read:*

5 4017.1. (a) Except as provided in paragraph (2), any person
6 confined in a county jail, industrial farm, road camp, or city jail
7 who is required or permitted by an order of the board of
8 supervisors or city council to perform work, ~~and who is described~~
9 ~~in subdivision (b)~~, and any person while performing community
10 service in lieu of a fine or custody, or who is assigned to work
11 furlough, ~~who is described in subdivision (b)~~, may not be
12 employed to perform any function that provides access to
13 personal information of private individuals, including, but not
14 limited to: addresses; telephone numbers; health insurance,
15 taxpayer, school, or employee identification numbers; mothers'
16 maiden names; demand deposit account, debit card, credit card,
17 savings, or checking account numbers, PINs, or passwords;
18 social security numbers; places of employment; dates of birth;
19 state or government issued driver's license or identification
20 numbers; alien registration numbers; government passport
21 numbers; unique biometric data, such as fingerprints, facial scan
22 identifiers, voice prints, retina or iris images, or other similar
23 identifiers; unique electronic identification numbers; address or

1 routing codes; and telecommunication identifying information or
2 access devices.

3 (2) Persons assigned to work furlough programs may be
4 permitted to work in situations that allow them to retain or look
5 at a driver's license or credit card for no longer than the period of
6 time needed to complete an immediate transaction. However, no
7 person assigned to work furlough shall be placed in any position
8 that may require the deposit of a credit card or driver's license as
9 insurance or surety.

10 ~~(b) Subdivision (a) shall apply to a person who has been~~
11 ~~convicted of an offense described by any of the following~~
12 ~~categories:~~

13 ~~(1) An offense involving forgery or fraud.~~

14 ~~(2) An offense involving misuse of a computer.~~

15 ~~(3) An offense for which the person is required to register as a~~
16 ~~sex offender pursuant to Section 290.~~

17 ~~(4) An offense involving any misuse of the personal or~~
18 ~~financial information of another person.~~

19 ~~(e)~~

20 (b) Any person confined in a county jail, industrial farm, road
21 camp, or city jail who has access to any personal information
22 shall disclose that he or she is confined before taking any
23 personal information from anyone.

24 ~~(d) This~~

25 (c) This section shall not apply to inmates in employment
26 programs or public service facilities where incidental contact
27 with personal information may occur.

28 *SEC. 2. Section 5071 of the Penal Code is amended to read:*

29 5071. (a) The Director of Corrections shall not assign any
30 prison inmate ~~described in subdivision (b)~~ to employment that
31 provides that inmate with access to personal information of
32 private individuals, including, but not limited to: addresses;
33 telephone numbers; health insurance, taxpayer, school, or
34 employee identification numbers; mothers' maiden names;
35 demand deposit account, debit card, credit card, savings, or
36 checking account numbers, PINs, or passwords; social security
37 numbers; places of employment; dates of birth; state or
38 government issued driver's license or identification numbers;
39 alien registration numbers; government passport numbers; unique
40 biometric data, such as fingerprints, facial scan identifiers, voice

1 prints, retina or iris images, or other similar identifiers; unique
2 electronic identification numbers; address or routing codes; and
3 telecommunication identifying information or access devices.

4 ~~(b) Subdivision (a) shall apply to a person who has been~~
5 ~~convicted of an offense described by any of the following~~
6 ~~categories:~~

7 ~~(1) An offense involving forgery or fraud.~~

8 ~~(2) An offense involving misuse of a computer.~~

9 ~~(3) An offense for which the person is required to register as a~~
10 ~~sex offender pursuant to Section 290.~~

11 ~~(4) An offense involving any misuse of the personal or~~
12 ~~financial information of another person.~~

13 ~~(e) Any~~

14 ~~(b) Any~~ person who is a prison inmate, and who has access to
15 any personal information, shall disclose that he or she is a prison
16 inmate before taking any personal information from anyone.

17 ~~(d) This~~

18 ~~(c) This~~ section shall not apply to inmates in employment
19 programs or public service facilities where incidental contact
20 with personal information may occur.

21 *SEC. 3. Section 219.5 of the Welfare and Institutions Code is*
22 *amended to read:*

23 219.5. (a) No ward of the juvenile court or Department of the
24 Youth Authority shall perform any function that provides access
25 to personal information of private individuals, including, but not
26 limited to: addresses; telephone numbers; health insurance,
27 taxpayer, school, or employee identification numbers; mothers'
28 maiden names; demand deposit account, debit card, credit card,
29 savings or checking account numbers, PINs, or passwords; social
30 security numbers; places of employment; dates of birth; state or
31 government issued driver's license or identification numbers;
32 alien registration numbers; government passport numbers; unique
33 biometric data, such as fingerprints, facial scan identifiers, voice
34 prints, retina or iris images, or other similar identifiers; unique
35 electronic identification numbers; address or routing codes; and
36 telecommunication identifying information or access devices.

37 ~~(b) Subdivision (a) shall apply to a person who has been~~
38 ~~adjudicated to have committed an offense described by any of the~~
39 ~~following categories:~~

40 ~~(1) An offense involving forgery or fraud.~~

1 ~~(2) An offense involving misuse of a computer.~~

2 ~~(3) An offense for which the person is required to register as a~~
3 ~~sex offender pursuant to Section 290 of the Penal Code.~~

4 ~~(4) An offense involving any misuse of the personal or~~
5 ~~financial information of another person.~~

6 ~~(e) If~~

7 ~~(b) If asked, any person who is a ward of the juvenile court or~~
8 ~~the Department of the Youth Authority, and who has access to~~
9 ~~any personal information, shall disclose that he or she is a ward~~
10 ~~of the juvenile court or the Department of the Youth Authority~~
11 ~~before taking any personal information from anyone.~~

12 ~~(d) Any~~

13 ~~(c) Any program involving the taking of personal information~~
14 ~~over the telephone by a person who is a ward of the juvenile~~
15 ~~court or the Department of the Youth Authority, shall be subject~~
16 ~~to random monitoring of those telephone calls.~~

17 ~~(e) Any~~

18 ~~(d) Any program involving the taking of personal information~~
19 ~~by a person who is a ward of the juvenile court or the Department~~
20 ~~of the Youth Authority shall provide supervision at all times of~~
21 ~~the ward's activities.~~

22 ~~(f) This~~

23 ~~(e) This section shall not apply to wards in employment~~
24 ~~programs or public service facilities where incidental contact~~
25 ~~with personal information may occur.~~

26
27 *SEC. 4. If the Commission on State Mandates determines that*
28 *this act contains costs mandated by the state, reimbursement to*
29 *local agencies and school districts for those costs shall be made*
30 *pursuant to Part 7 (commencing with Section 17500) of Division*
31 *4 of Title 2 of the Government Code.*

32 ~~530.5. (a) Every person who willfully obtains personal~~
33 ~~identifying information, as defined in subdivision (b), of another~~
34 ~~person, and uses that information for any unlawful purpose,~~
35 ~~including to obtain, or attempt to obtain, credit, goods, services,~~
36 ~~or medical information in the name of the other person without~~
37 ~~the consent of that person, is guilty of a public offense, and upon~~
38 ~~conviction, shall be punished either by imprisonment in a county~~
39 ~~jail not to exceed one year, a fine not to exceed one thousand~~
40 ~~dollars (\$1,000), or both that imprisonment and fine, or by~~

1 imprisonment in the state prison, a fine not to exceed ten
2 thousand dollars (\$10,000), or both that imprisonment and fine.

3 (b) “Personal identifying information,” as used in this section,
4 means the name, address, telephone number, health insurance
5 identification number, taxpayer identification number, school
6 identification number, state or federal driver’s license number, or
7 identification number, social security number, place of
8 employment, employee identification number, mother’s maiden
9 name, demand deposit account number, savings account number,
10 checking account number, PIN (personal identification number)
11 or password, alien registration number, government passport
12 number, date of birth, unique biometric data including
13 fingerprint, facial scan identifiers, voice print, retina or iris
14 image, or other unique physical representation, unique electronic
15 data including identification number, address, or routing code,
16 telecommunication identifying information or access device,
17 information contained in a birth or death certificate, or credit card
18 number of an individual person.

19 (c) In any case in which a person willfully obtains personal
20 identifying information of another person, uses that information
21 to commit a crime in addition to a violation of subdivision (a),
22 and is convicted of that crime, the court records shall reflect that
23 the person whose identity was falsely used to commit the crime
24 did not commit the crime.

25 (d) Every person who, with the intent to defraud, acquires,
26 transfers, or retains possession of the personal identifying
27 information, as defined in subdivision (b), of another person is
28 guilty of a public offense, and upon conviction, shall be punished
29 by imprisonment in a county jail not to exceed one year, or a fine
30 not to exceed one thousand dollars (\$1,000), or by both that
31 imprisonment and fine.